Remarks/Arguments:

Claims 1-30 are pending in the application.

Claims 1-3, 7-9, 13-15, 19, 21, 25, and 27 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Appropriate amendments to the claims are made herein.

Claims 1, 2, 7, and 8 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,963,407 to Detweiler et al.

Claims 3-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Detweiler et al. in view of U.S. Patent No. 5,143,792 to Cramer et al. Claims 19-30 stand rejected under U.S.C. 103(a) as being unpatentable over Detweiler et al. in view of Cramer et al., and further in view of U.S. Patent Application Publication 2002/0029843 to Popat et al.

Applicant appreciates the courtesies extended to Applicant's counsel during a telephone interview on October 26, 2005. The substance of that interview is as follows:

1. The interview did not include any exhibits or demonstrations.
2. Independent Claims 1, 7, 13, 19, and 25 were discussed.
3. The prior art discussed included U.S. Patent No. 4,963,407 to Detweiler et al., U.S. Patent No. 5,143,792 to Cramer et al., and U.S. Patent Application Publication 2002/0029843 to Popat et al..
4. Applicant's counsel proposed amending the claims as shown herein.
5. The Detweiler et al reference fails to teach a wooden panel formed of at least two contrasting wood types. Additional remarks consistent with the interview are provided below.
6. No other pertinent matters were discussed.
7. Applicant will file a Reply consistent with the interview.

Applicant's Invention

Applicant's invention is directed to a wooden panel for use in casegood furniture fronts to create a patchwork appearance. In its simplest embodiment, the panel comprises a background and a pattern, both visible when the panel has been constructed. The background is formed from

one or more wooden pieces of at least one grain type. For example, the background may be formed of birdseye maple or similar grained wood. The pattern is formed from wooden pieces of at least two other grain types, where each of these other types of grains of the pattern are contrasting with the type of grain of the background and are contrasting with each other. For example, the grain types of the pattern may be two or more of mahogany, maple, cherry, or prima vera. The background and pattern are so adjoined that the background and pattern together create a repeatable patchwork appearance.

The Prior Art is Different

Detweiler et al. is directed to a decorative panel (wall hanging) that is assembled from a number of pre-cut wooden shapes (squares, right triangles, and parallelograms), but not different types of wood or wood grains. Rather, Detweiler suggests painting selected pieces in one or more colors where it is desired to obtain pieces having a different appearance. Detweiler also lacks a visible background, that when combined with a pattern, would create a patchwork appearance.

Cramer, on the other hand, is directed to a method of forming a flitch by gluing together a stack of veneer sheets. The formed flitch is then vertically sliced, much like a layer cake, to create small rectangular pieces having thin strips that represent different wood types. However, there is no teaching that Cramer can appear in a panel for use in casegood furniture or any other way as either a background or as a repeatable pattern.

Further, neither Detweiler et al. alone, or in combination with Cramer, teaches, suggests, or provides the motivation to create a visible background of one visible grain type having an adjoining pattern or two or more visible grain types, where the grain types of the pattern each contrast with the grain type of the background and with each other.

Lastly, Popat is directed to a method of producing image transfer sheets, or decals, but otherwise completely fails to suggest or teach forming a pattern for furniture having a patchwork appearance.

Examiner's Rejections Under 35 U.S.C. 102 (b) Should Be Withdrawn Because Detweiler et al. Does Not Disclose Each And Every Element of the Claimed Invention

Both the Patent Office and the CAFC (formally the CCPA) have historically required that a single reference teach each and every element of the claim. That requirement is clear and unequivocal. Atlas Powder v. I.E. DuPont, 750 F2d 1569, 224 USPQ 409 (CAFC 1984) James Bury Corp. v. Litton Industrial Products, 750 F.2d 1556, 225 USPQ 253 (CAFC 1985).

Claims 1 and 2, as amended, require that the wooden panel comprise a background and a pattern that are so adjoined to create a repeatable patchwork appearance. Further, both the background and the pattern are formed from wood of different types of grain. Claims 7 and 8 include the additional limitation that the wooden panel formed of the background and pattern are affixed to a substrate to form a door front, drawer front, or headboard. Contrary to the Examiner's assertion, neither Detweiler et al. nor Cramer disclose both a substrate and a background. Lacking all of these claimed elements, Detweiler et al. cannot properly form the basis for a rejection under 35 U.S.C. 102(b).

The Claims Are Also Not Unpatentable Under 35 U.S.C. 103(a) As the Examiner Has Not Made Out a Prima Facie Case of Obviousness

It is the burden of the Examiner to establish a prima facie case of obviousness when rejecting claims under 35 U.S.C. 103. In re Reuter, 210 USPQ 249 (CCPA 1981). The CAFC (and the CCPA before it) have repeatedly held that, absent a teaching or suggestion in the primary reference for the need, arbitrary modifying of a primary reference or combining of references is improper. The ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577. 221 USPQ 929, 933 (Fed. Cir. 1984). In re Gieger, 815 F. 2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987).

With respect to Claims 3-18 as being unpatentable over Detweiler et al. in view of Cramer, the Examiner's rejections should be withdrawn based on the amended claims 1 and 7 described above, as well as similar amendments to Claim 13. The same arguments apply. There is no suggestion, teaching, or motivation in either of the references to modify the primary reference. Further, the Examiner offers no explanation of how or why Detweiler et al. and

Cramer could be combined to form the claimed invention. To the contrary, it does not seem they could.

With respect to Claims 19-30, as being unpatentable over Detweiler et al. in view of Cramer and further in view of Popat et al., the Examiner's rejections should be withdrawn based on similar amendments to independent Claims 19 and 25 and the arguments above.

Claims 13-18 are drawn to articles of furniture. Neither Detweiler et al. nor Cramer discloses furniture. While Popat et al. discloses decals that can be applied to furniture, it discloses nothing about the use of wood pieces with differing visible grains to create a panel or furniture pattern.

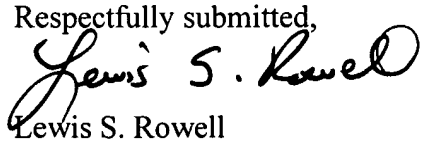
Even further, as the Federal Circuit has stated:

> It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

In re Fritch, 972 F.2d 1260, 23 USPQ 2d 1780, 1784 (Fed. Cir. 1992).

Applicant respectfully submits that the pending application is now in condition for an immediate allowance with Claims 1-30, and such action is requested. If any matter remains unresolved, however, Applicant's counsel would appreciate the courtesy of a telephone call to resolve the matter.

Respectfully submitted,



Lewis S. Rowell
Registration No. 45,469
C. Robert Rhodes
Registration No. 24,200
Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, Georgia 30357-0037
336-574-8090

Date: December 27, 2005